



**THE SAN DIEGO COUNTY
APARTMENT ASSOCIATION**

A Chapter of the California Apartment Association

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August 11 1999

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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W, TW-A325
Washington, D.C. 20554

FCC MAIL ROOM

**Re: Promotion of Competitive Networks in Local Telecommunications Markets, WT
Docket No. 99-217; Implementation of the Local Competition Provisions in the
Telecommunications Act of 1996, CC Docket No. 96-98**

Dear Ms. Salas:

On behalf of the San Diego County Apartment Association (SDCAA), I am writing in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999, regarding forced access to buildings. I have enclosed six (6) copies of this letter in addition to this original. We are concerned by the FCC action regarding access to private property by yet to be determined numbers of communications companies that will adversely impact our members' businesses and raise a number of additional legal issues. The Commission's public notice also raises a number of concerns.

SDCAA is a trade organization that represents over 3,000 rental property owners and managers throughout San Diego County. The rental housing industry includes nearly 50 percent of the region's 1 million housing units. As an active trade organization in this industry, we believe that this action by the FCC is unnecessary. Just to remain competitive in the rental market property owners already do everything they can to satisfy the needs of their residents with regard to providing access to telecommunications technologies. The imposition of the mandates described in the FCC action will only complicate the upgrades of telecommunications systems in much of our existing housing stock that was never designed for this type of wide open access.

In addition, the FCC's request for comments raises the following issues of particular concern to us: "nondiscriminatory" access to private property; expansion of the scope of existing easements; location of the demarcation point; exclusive contracts; and expansion of the existing satellite dish or "OTARD" rules to include non-video services.

• **FCC Action is Not Necessary:**

SDCAA is aware of the importance of telecommunications services to the residents of rental housing. Market forces are already at work in this area encouraging property owners to upgrade their communities to accept new and emerging technologies. Failure to meet the consumer's needs will result in jeopardizing the resident's tenancy which will

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cost a property owner valuable revenues. This is part of the open competition that occurs in the rental market. The principles are no different than those of the corner market; if the product they sell is not competitive, they will not be able to sell it, this has a direct impact on the bottom line.

- **"Nondiscriminatory" Access:**

We must have control over space occupied by service providers, especially when there are multiple companies involved. It's not realistic to expect an open door policy with regard to who enters a rental community. Rental property owners face liability for damage to the building, leased premises, facilities of other providers, and for personal injury to residents and visitors. We also are liable for safety code violations.

Qualifications and reliability of providers are a real issue. What does "nondiscriminatory" mean? Contract terms vary because each contract is different. A new company without a track record poses greater risks than an established one. What precautions if any can be taken to protect the character of the older housing stock that under this proposal? Property owners could have several different service providers, all with different systems.

- **Scope of Easements:**

If we had known governments would allow other companies to piggy-back, we would have negotiated different terms. Expanding rights now would constitute a taking.

- **Demarcation Point:**

Current demarcation point rules work well because they offer flexibility -- there is no need to change them.

- **Exclusive Contracts:**

These generally work to the benefit of our residents and they give competitors a chance to establish a foothold in our area.

- **Expansion of Satellite Dish Rules:**

We are opposed to the existing rules because we do not believe Congress meant to interfere with our ability to manage our property. The FCC should not expand the rules to include data and other services.

We believe no further action on these key issues is needed, and we urge you to support this point of view.

Thank you for your attention to our concerns.

Sincerely,



Robert Grinchuk
President